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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,029	01/29/2001	Stuart G. Oxford		9141

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MCKEE, VOORHEES & SEASE, P.L.C.  
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SUITE 3200  
DES MOINES, IA 50309-2721

EXAMINER

CROW, STEPHEN R

ART UNIT PAPER NUMBER

3764

DATE MAILED: 10/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/772,029

Applicant(s)

OXFORD, STUART G.

Examiner

Steve R Crow

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-15, 17-19, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) 9, 16, 20-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

DETAILED ACTION

*Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4,17 are rejected under 35 U.S.C. 102(b) as being anticipated by Seel et al.

Seel et al discloses a body exercise device comprising a lower portion 16 which has a generally parabola shape, a foot support and retaining portion 122 at the upper end which supports and retains a person's foot therein.

As to claims 2-4, note the weight retaining solid pipe rod 140 for securing weights 142.

As to claim 17, note that the lower portion is removably secured to the foot support portion.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-7,10-15, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seel et al in view of Little.

Little shows in figures 5-6 elongated members 52 which have lower ends received by pipe stubs 50. In view of this teaching, it would have been obvious to one skilled in the exercise art to modify the Seel et al device by substituting a hollow pipe rod which engages with an elongated rod as an obvious design variant to accommodate more weights. Likewise, as to claim 6, the examiner contends that it also would have been obvious to one skilled in the art to utilize elongated rods having hand grip portions as exemplified by the Little rods 70 for user safety while exercising.

As to claims 10- 15 and 24 , note the overlapping tubes 70-72 of Little ; providing a plurality of overlapping tubular members secured to a pipe stub or to arrange the attachment means at any desired position is considered an obvious variant to permit more weights to be stacked compactly.

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Claims 18-19,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seel et al in view of Kost and Timko.

Seel et al states in column 5 lines 55+ that "other means to prevent slippage of the foot on the platform" can be used.

Kost teaches the use of deep recesses 40-41 on a foot platform to secure a user during exercise activity.

Timko teaches the use of shallow recesses on a platform 20 for supporting a person.

In view of these teachings, it would have been obvious to one skilled in the art to substitute a shallow recess for the Seel anti-slip surface to prevent foot slippage during exercise and yet be able to retain functionality of the device.

1. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seel et al in view of Little as applied to claim 5 , and further in view of Boggild.

Boggild discloses an exercise device having a flexible pole 10 for user exercise and amusement purposes. In view of this teaching , it would have been obvious to one skilled in the art to utilize a flexible pole in the Seel et al, modified supra, device, for exercise and amusement purposes.

### ***Claim Objections***

2. Claims 24-25 objected to because of the following informalities: These claims recite "the said". Appropriate correction is required.

***Allowable Subject Matter***


3. Claims 9,16,20-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve R Crow whose telephone number is 703-308-3398. The examiner can normally be reached on Reg:8:30-6;Off First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4520 for regular communications and 703-306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.

sc  
September 30, 2003

  
STEPHEN R. CROW  
PRIMARY EXAMINER  
ART UNIT 332